

Appln. No. 08/141,017
Response dated April 12, 2006
Reply to Office action of Jan. 12, 2006

REMARKS

The rejection of claims 1 and 7 as anticipated by Soll is respectfully traversed in view of the Terminal Disclaimer filed of even date herewith. The Examiner has herein rejected claims 1, 3-7 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,080,893, stating:

“---Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant claims encompass the molecular weight of that recited in the patented claims---” (emphasis added).

If the claims of US patent no. 5,080,893 were found to be patentable over the reference to Soll, it stands to reason that claims 1 and 7 (which are rejected herein on the ground of double patenting over said patent claims) are also patentable. Since claims 1 and 7 are not, by the Examiner's own admission, patentably distinct from the claims of US 5,080,893 and the latter were found to be patentable over Soll, no other conclusion can be reached except that claims 1 and 7 are also patentable over Soll. Accordingly, withdrawal of this ground of rejection is respectfully requested.

The rejection of claims 1, 3-7 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-6 of U.S. Patent No. 5,080,893 is believed to be obviated by the Terminal Disclaimer filed herewith. The Examiner stated in the Official Letter:

“---It appears that on 2/19/94 and 7/22/05, applicants were sent notices of denial of entry of the terminal disclaimer filed 6/30/03 and 9/19/94 respectively---”.

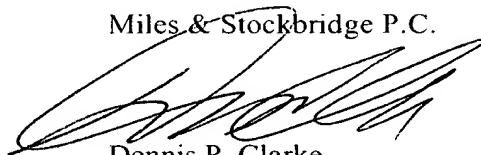
Applicant is aware of no such notices; however, in the interests of expediting the prosecution of the application, a new Terminal Disclaimer is being filed herewith. Accordingly, withdrawal of this ground of rejection is respectfully requested.

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Applicant has earnestly endeavored to place this application for allowance and an early action toward that end is respectfully requested.

Respectfully submitted,

Miles & Stockbridge P.C.

A handwritten signature in black ink, appearing to read 'D. Clarke', is written over the printed name.

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DPC/maa

Date: April 12, 2006

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